



## Fact Sheets and Information Papers

### MATERIAL OF TRADE – EXCEPTION (Regulated Medical Waste)

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**Background.** There are instances when government organizations transporting regulated medical waste (RMW) meet a U.S. Department of Transportation (DOT) exception to the DOT's Hazardous Materials Regulations (HMR). That exception is called the Material of Trade exception and it is defined in Title 49, Code of Federal Regulations (CFR), Part 171.8 as meaning "...a hazardous material that is carried on a motor vehicle...by a private motor carrier...in direct support of a principal business that is other than transportation by a motor vehicle." The specific requirements for using the Material of Trade exception are stated in 49 CFR 173.6.

**Application.** Regulated medical waste (RMW) is classified by the DOT as a hazardous material and when it is transported in commerce, the HMR require that it be packaged, marked, labeled, and described on shipping papers. If, however, the RMW is transported by a "private motor carrier" for a noncommercial purpose, then the Material of Trade exception applies and would reduce the regulatory requirements that must be met.

**Example.** A correct and proper use of the Material of Trade exception would be to have RMW transported in a government vehicle using a government driver from one government location (such as an off-post health clinic) to another government location (such as a government medical treatment facility) for consolidation or accumulation along with the RMW that is generated at that government medical treatment facility, even if transported across public highways.

**Specifics.** The specific requirements from 49 CFR 173.6 are stated in the paragraphs below: The RMW must be contained in combination packaging. A combination packaging has an outer packaging that is strong, securely closed, secured against movement, and is able to hold either "red bags" or sharps containers without breaking, leaking, or losing the contents while being transported. The outer packaging may be plastic reusable "tubs" or fiberboard boxes normally used to transport RMW provided they meet the following weight or volume limits.

- For liquids, the inner packaging must be leak tight, and the outer packaging must contain sufficient absorbent material to absorb the entire contents of the inner packaging.
- For sharps, the inner packaging must be constructed of a rigid material resistant to punctures and leaks.
- The combination packaging must consist of one or more inner packagings (e.g., "red bags" or sharps containers) each of which, when filled, weighs 8.8 pounds or less or which has a capacity to hold 1 gallon or less. The outer packaging, when filled, must weigh less than 35.2 pounds and/or have a capacity less than 4.2 gallons.
- The outer packaging must be marked with the words "Regulated Medical Waste."
- The maximum total weight of all the combination packages loaded on one motor vehicle at one time for transportation cannot exceed 440 pounds.

- The operator of the motor vehicle must be informed of the presence of the hazardous material that is being transported and also must know the regulatory specifics (i.e., the ones extracted from the HMR and stated in the paragraphs above.)

**Supporting information.** The following definitions and clarifications come from various letters of interpretation that the DOT has written and from coordination with transportation experts (for hazardous materials) at Department of the Army level. These clarifications pertain directly to the matter of what is a private motor carrier and the transport of hazardous materials over the public highways for the accomplishment of the government mission.

- The transport of hazardous materials in military or government-owned or government-leased vehicles operated by military or government personnel solely for noncommercial purposes is not subject to the HMR.
- A private motor carrier is a carrier which transports the business's own products and does not provide such transportation service to other businesses.
- The application of the Materials of Trade exception, as stated in this paper, does not conflict with the Defense Transportation Regulation, DOD 4500.9-R.

**Important distinctions.** There are some distinctions that need to be made in order to clarify the applications of the Material of Trade exceptions. In each of the following examples, the transport is considered "commercial" and **all** the applicable **rules in the HMR apply**. The Materials of Trade exceptions are not applicable and do not apply to any of the following situations (because each of these examples is considered to be "in commerce"):

- Government vehicle with government driver transports RMW directly from the clinic to a treatment or disposal company that disposes of the RMW under contract with the government.
- The government entity offers hazardous material for transportation to commercial carriers.
- The government vehicle is operated by a driver who is a contractor (i.e., not a government employee).

If there are questions on this matter, please contact the Hazardous and Medical Waste Program, U.S. Army Center for Health Promotion and Preventive Medicine, Aberdeen Proving Ground, MD 21010-5403. Phone number: (410)436-3651.

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